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UNITED STATES DEPARTMENT OF COMMERCE
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In re Application of :
Thomas R. Adams et al. :
Serial No. 08/113,561 : DECISION ON PETITION
Filed: August 25, 1993 :
Attorney Docket No. DEKA:055 :

This is a decision on the petition filed October 12, 1993, requesting that the above-identified application be accorded a filing date of August 25, 1993.

The application was deposited on August 25, 1993. However, on September 15, 1993, Application Division mailed a "Notice" requiring a drawing of Figures 1, 2 and 5 described in the specification and stating that the filing date would be the date of receipt of the omitted drawing. It is also noted that the specification describes Figures 7, 8 and 11, but no drawings labeled "Fig. 7", "Fig. 8" and "Fig. 11" were filed on August 25, 1993.

In response, the present petition was filed. Petitioners request that the application be accorded a filing date of August 25, 1993, the date the application was deposited in the Patent and Trademark Office without drawings labelled "Fig. 1", "Fig. 2", "Fig. 5", "Fig. 7", "Fig. 8" and "Fig. 11". Petitioners argue that the reference to "Fig. 1" in the specification is actually a reference to Figures 1A-1Z and 1AA-1EE as shown in the drawings submitted on August 25, 1993. Similar arguments are made with respect to the references to Figure 2, 5, 7, 8 and 11.

Upon consideration of the petition, it appears that no drawings labeled Figures 1, 2, 5, 7, 8 and 11 were intended to be filed and that the references to Figures 1, 2, 5, 7, 8 and 11 actually refer to Figures 1A-1Z and 1AA-1EE, 2A, 2B, 5A, 5B, 7A-7D, 8A-8E, 11A and 11B, respectively, which were submitted on August 25, 1993, and are present in the file.

In view of the above, the petition is granted.

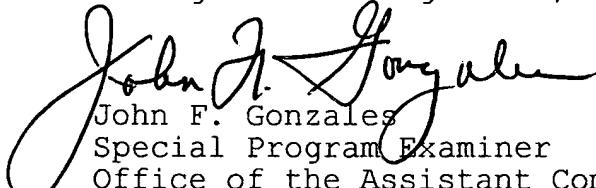
The "Notice" mailed September 15, 1993, is hereby vacated.

However, since the application as filed described Figures 1, 2, 5, 7, 8 and 11, and no drawings labeled Figures 1, 2, 5, 7, 8 and 11 were present, the application was prima facie incomplete. See MPEP 506 and 608.01(f). Thus, the petition and the petition fee were necessary to correct applicants' filing error. Therefore, the petition fee will not be refunded.

The file shows that the filing fee, the oath or declaration required by 37 CFR 1.63 and the surcharge have not been filed.

Applicants are given ONE MONTH from the date of this decision to file an oath or declaration in compliance with 37 CFR 1.63 and to pay the \$2,336.00 filing fee and the \$130.00 surcharge set forth in 37 CFR 1.16(e) in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136(a). The oath or declaration should identify the specification to which it is directed by reference to the above-identified serial number and filing date. Applicants' response should be directed to the attention of Application Division.

The application is being returned to Application Division to await applicants' response and for further processing with a filing date of August 25, 1993.


John F. Gonzales
Special Program Examiner
Office of the Assistant Commissioner for Patents

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